

EXHIBIT 12

In the Matter Of:

UNITED STATES vs

GOOGLE

EISAR LIPKOVITZ

November 09, 2023



1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF VIRGINIA

3 -----x

4 UNITED STATES OF AMERICA, et al.,

5 Plaintiff,

6 -against- Civil Action No.

7 GOOGLE LLC, 1:23-cv-00108

8 Defendant.

9 ***CAPTION CONTINUED***

10 -----x

11 VIDEOTAPED STENOGRAPHIC DEPOSITION OF:
12 EISAR A. LIPKOVITZ
13 Thursday, November 9, 2023
14 Washington, D.C.
15 9:07 a.m. - 5:09 p.m.
16 HYBRID DEPOSITION
17
18
19
20

21 Reported stenographically by:
22 Richard Germosen, FAPR, CA CSR No. 14391
23 RDR, CRR, CCR, CRCL, CSR-CA, NYACR, NYRCR
24 NCRA/NJ/NY/CA Certified Realtime Reporter
25 NCRA Realtime Systems Administrator
Job No. 2023-905987

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x

CAPTION CONTINUED

In Re: Google Digital Advertising
Antitrust Litigation,
1:21-md-3010 (S.D.N.Y.)

-----x

CONTINUED VIDEOTAPED TELECONFERENCED STENOGRAPHIC
DEPOSITION of EISAR A. LIPKOVITZ, taken in the
above-entitled matter before RICHARD GERMOSEN, Fellow of
the Academy of Professional Reporters, Certified Court
Reporter, (License No. 30XI00184700), Certified Realtime
Court Reporter-NJ, (License No. 30XR00016800),
California Certified Shorthand Reporter, (License No.
14391), NCRA/NY/CA Certified Realtime Reporter, NCRA
Registered Diplomate Reporter, New York Association
Certified Reporter, NCRA Realtime Systems Administrator,
taken at the offices of FRESHFIELDS BRUCKHAUS DERINGER
LLP, 700 13th Street, N.W., Washington, D.C. 20005, on
Thursday, November 9, 2023, commencing at 9:07 a.m.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

11:07 a.m.

Washington, D.C.

THE VIDEOGRAPHER: Stand by, please.

We are now on the record. My name is David Campbell, and I'm a videographer retained by Lexitas. Today's date is November 9, 2023, and the time on the video monitor is 9:07 a.m. This deposition is being held at 700 13th Street, Northwest, 10th Floor, Washington, D.C. 20005.

This is in the matter of United States of America versus Google LLC. The deponent today is Eisar Lipkovitz. The court reporter today is Rich Germosen also with Lexitas.

Counsel, will you please identify yourselves for the record, after which the court reporter will please swear in the witness and we can proceed.

ATTORNEY WOOD: Julia Tarver Wood from the United States Department of Justice on behalf of the United States.

ATTORNEY FREEMAN: Michael Freeman, part of the United States Department of Justice.

307

1 Q. While you worked in the display
2 group, did you use Google Chats to communicate about
3 work?

4 A. Not really, not much.

5 Q. You say not much. Did you ever?

6 A. Probably, yeah.

7 Q. Okay. And at the time that you used
8 Google Chats, were you aware that Google faced
9 potential litigation?

10 ATTORNEY ELMER: Object to form.

11 A. About what?

12 Q. About anything?

13 A. Sure.

14 Q. And at that time were you under any
15 instruction to preserve your documents?

16 A. I don't know. I mean, I don't think
17 I ever got litigation hold as an example.

18 Q. You never got one?

19 A. I don't remember getting one, but,
20 you know, there were changes into retention policy
21 of email. There was history on and off on chats, so
22 I knew these things exist, but if it's not
23 abundantly clear from my testimony, I am stand
24 behind everything I say, and I don't choose my
25 words. So, yeah, these things happened, but I

308

1 didn't change my behavior because of it.

2 Q. Do you know the default setting in
3 Google Chat was to delete the chats?

4 A. I don't -- I don't -- I don't know
5 actually. I think it has changed. I definitely
6 know there was a discussion. It was built. It was
7 changed. From what to what, I have no idea. It
8 didn't matter to me.

9 Q. But at the time you were using it,
10 did you know that things that you wrote on a Google
11 Chat would not be preserved for litigation purposes?

12 ATTORNEY ELMER: Object to form.

13 A. Okay, let me say it differently. I
14 don't recall, one; two, it wouldn't have made any
15 difference to my behavior; three, I cannot answer
16 definitive question like the one you asked, but I
17 know for a fact that I did not use chat much for
18 anything work-related that is -- like discussions
19 like that. It's more to find a person and, you
20 know, to just -- a very different kind of
21 interaction.

22 Q. Do you know --

23 A. I don't know how you call it.

24 Q. Do you have any financial interest in
25 Google or its parent company Alphabet?

314

C E R T I F I C A T E

I, RICHARD GERMOSEN, Fellow of the
Academy of Professional Reporters, stenographic New
Jersey Certified Court Reporter, New Jersey Certified
Realtime Court Reporter, California Certified
Shorthand Reporter, California Certified Realtime
Reporter, NCRA Registered Diplomate Reporter, and
NCRA Certified Realtime Reporter, do hereby certify:

That EISAR A. LIPKOVITZ, the witness
whose deposition is hereinbefore set forth, having
been duly sworn, and that such deposition is a true
record of the testimony of said witness.

I further certify that I am not related
to any of the parties to this action by blood or
marriage, and that I am in no way interested in the
outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set
my hand this 10th day of November 2023.



RICHARD GERMOSEN,
FAPR, RDR, CRR, CCR-NJ, CRCR, CSR-CA, CCRR-CA,
NYACR, NYRCR
LICENSE NO. 30XI00184700
LICENSE NO. 30XR00016800
California CSR No. 14391
California CRR No. 198